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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

Federal Communications Commission
Office of Secretary

In the Matter of

Interconnection and Resale
Obligations Pertaining to
Commercial Mobile Radio Services

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CC Docket 94-54

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COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

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October 4, 1996

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**COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Cellular Telecommunications Industry Association ("CTIA"),¹ by its attorneys, submits its Comments in the above-captioned proceeding.²

INTRODUCTION AND SUMMARY

Commission adoption of an automatic roaming (carrier to carrier) requirement applicable to cellular, broadband PCS, and covered SMR providers is fraught with serious legal and policy issues. In effect, an automatic roaming requirement creates a specialized duty on the part of CMRS carriers to deal with other carriers (akin to a requirement for direct interconnection

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers, including 48 of the 50 largest cellular, broadband personal communications service ("PCS"), enhanced specialized mobile radio, and mobile satellite service providers. CTIA represents more broadband PCS carriers, and more cellular carriers, than any other trade association.

² Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Report and Order and Third Notice of Proposed Rulemaking in CC Docket 94-54, FCC 96-284 (released August 15, 1996) ("Notice").

imposed upon incumbent local exchange carriers ("LEC")), but in a competitive context. The Commission should refrain from imposing such an obligation until there is concrete evidence of market failure; evidence which, as the Commission notes, is currently lacking.³

If and when it becomes necessary for the Commission to intervene to remedy a carrier's problematic roaming practices, the Section 208 process is an appropriate solution, as opposed to an inflexible, industry-wide rule.

Under the current regulatory regime, CMRS customers are vested with a set of rights to obtain common carrier roaming services, i.e., manual roaming capability. In an increasingly competitive atmosphere, all companies, including CMRS carriers, will have strong economic incentives to quickly and efficiently offer customers the services they desire. Because the market is fully capable of determining the need for and extent of roaming services, there is no need to create a special obligation for CMRS carriers.

Adoption of an automatic roaming requirement represents a significant departure from the Commission's ongoing practice of allowing market forces, and not regulatory fiat, to shape the development of CMRS. Any regulatory regime adopted must take into account CMRS carrier costs as well as numerous variables that are inherent in roaming agreement negotiations. Such a rule

³ Notice at ¶ 20 ("We note that there is no specific evidence in the record of unreasonable discrimination against PCS licensees concerning the provision of roaming.")

will necessarily be so complex as to resemble the detailed monitoring and ongoing oversight necessary under the Section 251/252 interconnection regime. While there are legitimate reasons, as well as a Congressional mandate, necessitating such a level of scrutiny for interconnection, there is no similar basis here.

Today, inter-carrier roaming agreements are complex contracts that are the product of detailed negotiations. Rates and terms vary greatly depending on numerous factors including proximity of the roaming markets, volume of anticipated traffic exchanged between systems, and the fraud prevention and detection methods in place for the respective carriers. The type and extent of roaming also plays a significant part in a carrier's competitive business strategy. This is not an area where the Commission should second-guess the market, especially when competition itself is at stake.

Moreover, an automatic roaming requirement will impose significant administrative costs upon carriers, with seemingly little corresponding benefit. While technology, such as the CORD product developed by CTIA's CIBERNET subsidiary, may eventually alleviate some, if not the majority of these costs, the very fact that the industry is rapidly changing in response to competitive demands strongly suggests that the Commission refrain from intervening. That is, any rule adopted now, even if it was "correct," i.e., based upon current reported industry costs, may be obsolete upon examination six months later. Finally, an automatic roaming requirement can be "gamed" by competitors who

could use the requirement to impose uneconomic costs upon their rivals. These factors all lead to one conclusion: retention of the current regulatory status quo.

I. AS A MATTER OF LAW, THE COMMISSION SHOULD REFRAIN FROM ADOPTING AN AUTOMATIC ROAMING REQUIREMENT.

Based upon a concern regarding the inconclusiveness of the current record and the desire to seek more up-to-date information,⁴ the Commission has opened for comment whether: (1) the Commission needs to take further action beyond the extension of the manual roaming requirement; (2) whether it should specifically adopt an automatic roaming rule; and (3) "what are the disadvantages of such action, especially as to network costs and additional burdens on providers, particularly smaller providers."⁵

As a legal matter, automatic roaming cannot be adopted. There is no record to support its adoption.⁶ All of the qualitative analysis cuts the other way.⁷ Moreover, as

⁴ Notice at ¶ ¶ 15-16.

⁵ Id. at ¶ 18.

⁶ See American Telephone and Telegraph Co. v. FCC, 974 F.2d 1351, 1354 (1992) ("An agency must nevertheless 'examine the relevant data and articulate a satisfactory explanation for its action.' Accordingly, we will not uphold an agency's action where it has failed to offer a reasoned explanation that is supported by the record." (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co., 463 U.S. 29 (1983))).

⁷ As CMRS providers, by definition, offer their services to the public or a substantial portion thereof, 47 U.S.C. § 332(d)(1), ubiquitous coverage would appear to be the general goal. In most cases, the value of a CMRS provider's services to the subscriber is a function of the ubiquity of its network. The question arises whether the particular

considered in Section II, the costs and burdens associated with such an obligation far outweigh any potential benefits.

A. An Automatic Roaming Requirement Is Unwarranted As CMRS Providers Lack The Prerequisite Market Power.

Long established and well considered doctrine commands that absent persistent, sustained market power, a firm is free to unilaterally choose to deal or decline to deal with others.⁸ Therefore, a duty to deal is generally imposed only where the service provider would likely abuse the public if no legal protection were extended.⁹ Once such services become available from multiple service providers, the duty to deal can be removed.¹⁰ Consistent with this notion, the Commission in the Competitive Carrier docket concluded that non-dominant carriers are unlikely to engage in unilateral anticompetitive practices and, therefore, need not be subject to certain burdensome common carrier obligations.¹¹

uniform practices and standards being considered would promote competition within a network defined by a particular technology or whether they would diminish consumer welfare by reducing the ability of competing firms to differentiate themselves in a meaningful way and further consumer welfare in this networking industry. See Michael L. Katz and Carl Shapiro, Network Externalities, Competition, and Compatibility, 75 Amer. Econ. Rev. 424 (1985).

⁸ See generally, United States v. Colgate & Co., 250 U.S. 300, 307 (1919).

⁹ See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 84 FCC 2d 445, 522 (1981).

¹⁰ See id. at 521.

¹¹ Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, Notice of Inquiry and Notice of Proposed Rulemaking, 77 FCC 2d

Policymakers and regulators alike have consistently refrained from imposing such an obligation on communications providers unless such providers exercise persistent, substantial market power.¹² Most recently, recognizing the significant costs arising from establishing a duty to deal, the Commission has, in response to Congressional mandate, required direct interconnection on the part of incumbent LECs; importantly, the Commission has not extended this obligation of direct interconnection to CMRS providers.¹³ The same rationale underlying the Commission's refusal to impose compulsory

308, 334-338 (1979); First Report and Order, 85 FCC 2d 1, 31 (1980); Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981); Second Further Notice of Proposed Rulemaking, FCC No. 82-187, 47 Fed. Reg. 17,308 (1982); Second Report and Order, 91 FCC 2d 59 (1982); recon., 93 FCC 2d 54 (1983); Third Report and Order, 48 Fed. Reg. 46,791 (1983); Fourth Report and Order, 95 FCC 2d 554 (1983), vacated, AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992), rehearing en banc denied, January 21, 1993, upheld, MCI v. AT&T, 114 S. Ct. 2223 (1994); Fourth Further Notice of Proposed Rulemaking, 96 FCC 2d 922 (1984); Fifth Report and Order, 98 FCC 2d 1191 (1984), recon., 59 Rad. Reg. 2d (P&F) 543 (1985); Sixth Report and Order, 99 FCC 2d 1020 (1985); reversed, MCI Telecommunications Corp. v. FCC, 765 F.2d 1186 (D.C. Cir. 1985).

¹² A duty to deal with a competitor should be imposed only on a firm (or group of firms) that has a monopoly in the downstream market. Areeda & Hovenkamp, Antitrust Law, ¶ 736.2d (1993 Supp.). A concerted refusal to deal is not illegal in the absence of market power. Northwest Wholesale Stationers v. Pacific Stationary & Printing Co., 472 U.S. 284 (1985).

¹³ See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996: Interconnection Between Local Exchange Carrier and Commercial Mobile Radio Service Providers, First Report and Order in CC Dockets 96-98 and 95-185, FCC 96-325, at ¶ 1006 (released August 8, 1996) ("because CMRS providers do not fall within the definition of [an incumbent] LEC under section 251(h)(1), they are not subject to the duties and obligations imposed on incumbent LECs under section 251(c)," including the duty to provide for direct interconnection).

interconnection requirements applies here to bar an automatic roaming requirement.¹⁴

B. Considering The Lack Of Record Evidence Of Market Failure, The Section 208 Complaint Process Is Entirely Sufficient To Remedy Any Limited Instances Where Automatic Roaming May Be Necessary To Further Social Welfare.

CTIA takes issue with previous comments contending that "the need to jump start competition by emerging wireless providers, especially PCS providers, is too great to rely on clarification of statutory obligations in after-the-fact adjudicatory proceedings, such as complaint proceedings under Section 208 of the Act."¹⁵ Considering that "there is no specific evidence in the record of unreasonable discrimination against PCS licensees concerning the provision of roaming,"¹⁶ and given the legal and policy arguments disfavoring such a requirement, case-by-case determinations provided by Section 208¹⁷ appear to be the logical recourse.

CMRS providers, as Title II common carriers subject to the obligations found in Sections 201 and 202 of the Communications

¹⁴ As CTIA has consistently maintained throughout this proceeding, with the concurrence of Commission declarations and the federal reviewing courts, the CMRS market is competitive. See Comments of the Cellular Telecommunications Industry Association in response to the Second Notice of Proposed Rulemaking in CC Docket 94-54, at 4-5 (June 14, 1995).

¹⁵ Notice at ¶ 17.

¹⁶ Id. at ¶ 20.

¹⁷ 47 U.S.C. § 208.

Act of 1934, as amended,¹⁸ are obligated to provide roaming services to end users upon reasonable request.¹⁹ The Section 208 complaint process can sufficiently protect CMRS consumers should occasions arise in which CMRS providers engage in statutorily unreasonable practices.²⁰ Thus, a formal complaint under Section 208 of the Communications Act with the Commission is available if and when an improper denial of roaming services has occurred. Through this process, the Commission can ensure that CMRS providers obtain timely and appropriate redress where, and if, warranted.²¹ Hypothetical concerns over CMRS provider misconduct will not support a rule with its attendant costs and burdens.

¹⁸ 47 U.S.C. §§ 201, 202.

¹⁹ See Notice at ¶ 10 (roaming is a common carrier service).

²⁰ The Commission's confidence in the Section 208 complaint process generally is reflected in the CMRS Second Report, where the Commission concluded, in the context of forbearing from rate and other regulation under Title II, that "the Section 208 complaint process would permit challenges to a carrier's rates or practices and full compensation for any harm due to violations of the Act." Implementation of Sections 3(n) and 332 of the Communications Act: Regulatory Treatment of Mobile Services, Second Report and Order in GN Docket No. 93-252, 9 FCC Rcd 1411, 1479 (1994) ("CMRS Second Report").

²¹ Moreover, CMRS providers are liable for monetary damages under Sections 206, 207 and 209 of the Communications Act, 47 U.S.C. §§ 206, 207 and 209, for violations of the Communications Act. See CMRS Second Report 9 FCC Rcd at 1479 ("we do not forbear from Sections 206, 207, and 209, so that successful complainants could collect damages" in the event of Section 201 violations). Such potential liability should provide sufficient incentive for the conclusion of fair and efficient roaming agreements.

C. The Commission Should Preempt State And Local Regulation of Intrastate Roaming As Prohibited Rate And Entry Regulation.

State and local regulation of intrastate roaming represents an added layer of regulatory cost which should be avoided. CTIA strongly agrees with the Commission's assessment that "states are preempted by statute from any regulation of intrastate roaming that would constitute the regulation of CMRS entry or rates."²²

In this case, State and local regulators would be prohibited under Sections 332²³ and 253²⁴ of the Communications Act from reviewing or determining any rates associated with a roaming agreement. Nor can they, by regulation of roaming agreements,

²² Notice at ¶ 34.

²³ 47 U.S.C. § 332. Specifically, Section 332(c)(3)(A) provides in relevant part: "Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service . . . except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services." See 47 U.S.C. § 332(c)(3)(A). See also H.R. Rep. No. 111, 103rd Cong., 1st Sess. 260 (1993) ("To foster the growth and development of mobile services that, by their nature, operate without regard to state lines as an integral part of the national telecommunications infrastructure, new section 332(c)(3)(A) also would preempt state rate and entry regulation of all commercial mobile services.") ("House Report").

²⁴ 47 U.S.C. § 253. The newly enacted Section 253 underscores and illuminates Congress' intent that all telecommunications services, including CMRS, be fully utilized, and free of any barriers created by the States. Specifically, Section 253(a) states, in relevant part, that: "No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."

create any barriers, direct or indirect, complete or partial, to a CMRS carrier's offering of roaming services.²⁵

II. AN AUTOMATIC ROAMING REQUIREMENT REPRESENTS A SIGNIFICANT DEPARTURE FROM THE COMMISSION'S EFFORTS TO FOSTER A COMPETITIVE, FLEXIBLE, DE-REGULATORY WIRELESS MARKETPLACE.

In revising Section 332 in 1993, and more recently with the passage of the Telecommunications Act of 1996, Congress intended to promote a competitive environment for telecommunications, characterized by efficiency, open entry and overall lower costs of doing business, including the reduction of the types of costs imposed by Federal, State and local regulatory bodies.²⁶ As applied here, the Commission, consistent with Congressional mandate, is prohibited from imposing undue, excessive burdens on CMRS carriers and services. This necessarily includes the decision to not adopt an automatic roaming rule for CMRS carriers.

Both the 1993 House and Conference reports detail Congress' intention to create a national policy for wireless services that minimizes intrusive Federal²⁷ and State regulation. Such a

²⁵ For example, State imposition of an automatic roaming rule, in the absence of Commission action, would be prohibited by the Communications Act.

²⁶ The Commission has recognized that automatic roaming may be at odds with Congress' intent in passing the Telecommunications Act of 1996 as well with its own policies that favor market driven development of wireless services. Notice at ¶ 27.

²⁷ Section 332(c)(1)(A), 47 U.S.C. § 332(c)(1)(A), permits the Commission, upon assessing the competitive nature of CMRS, to forbear from all common carrier provisions of Title II, with the exception of the core provision in Sections 201, 202 and 208.

policy is predicated, in part, upon regulatory parity and uniformity notions, i.e., neither federal nor State nor local governments, by their regulatory efforts, are entitled to adopt regulations which introduce disparity among similar services.²⁸ It also is predicated upon Congress' desire to promote competition, new technologies and the rapid buildout of a national wireless communications infrastructure.²⁹ Moreover, it reflects the expectation on Congress' part that CMRS providers

²⁸ In revising Section 332, Congress sought to ensure regulatory parity among CMRS providers because "the disparities in the current regulatory scheme [e.g., private mobile carriers are exempted from State and federal regulation of rates and entry while common carrier mobile services are not] could impede the continued growth and development of commercial mobile services." See House Report at 260. See also H.R. Conf. Rep. No. 213, 103rd Cong., 1st Sess. 494 (1993) ("Conference Report"). ("in considering the scope, duration or limitation of any State regulation [the Commission] shall ensure that such regulation is consistent with the overall intent of this subsection as implemented by the Commission, so that, consistent with the public interest, similar services are accorded similar regulatory treatment.") (emphasis added).

²⁹ By permitting regulatory forbearance of Title II provisions, Congress intended "to establish a Federal regulatory framework to govern the offering of all commercial mobile services." See Conference Report at 490. See also 139 Cong. Rec. S7995-S7996 (daily ed. June 24, 1993). Congress incorporated by reference the findings of the House bill and the Senate Amendment into the Omnibus Budget Reconciliation Act of 1993. Section 4002(13) of the Senate Amendment finds that "because commercial mobile services require a Federal license and the Federal Government is attempting to promote competition for such services, and because providers of such services do not exercise market power vis-à-vis telephone exchange service carriers and State regulation can be a barrier to the development of competition in this market, uniform national policy is necessary and in the public interest." (emphasis added).

would evolve to eventually provide competition to the incumbent LECs.³⁰

The 1996 Act, in turn, was enacted by Congress as a means to "provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition."³¹

As is clear from the legislation and the accompanying legislative history, Congress did not intend for additional burdens or costs to be imposed on any competitive carriers, unless market imperfections so warrant. This is simply not the case here.

A. Inter-Carrier Roaming Agreements Are Complex Contracts Which Are The Product Of Intense Negotiation And Are Highly Reflective Of A Carrier's Competitive Business Strategy.

Roaming has evolved into one of the most important features for creating a nationwide cellular communications network. Carriers voluntarily enter into roaming agreements to enhance their competitive position by offering users a wider range of service, while also providing another carrier's users cellular access when they are away from their usual service area.³²

³⁰ See, e.g., 47 U.S.C. § 332(c)(3)(A); Conference Report at 493.

³¹ See S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 1 (1996).

³² The Commission recognized the competitive advantages associated with roaming when it noted that "when APC in the Washington/Baltimore area became the first licensee in the

Carriers also earn revenues from both "in roaming" and "out roaming" customers. When considering the benefits of roaming, it is important to note that carriers have voluntarily entered into numerous roaming agreements because the consumer market has dictated such a result. Moreover, the Commission must consider as well that freedom to deal and the flexibility to negotiate is essential to create fairly priced roaming agreements. This means that any Commission automatic roaming rule, by definition, will impinge upon this needed flexibility.

Roaming agreements vary greatly between and among CMRS carriers with regard to several factors, including the geographic proximity of the subject carriers, the anticipated volume of traffic, and the technical infrastructure of the roaming partner.

The Commission recognized in the Notice that most roaming occurs in adjacent markets.³³ Because one of the greatest demands of customers is the ability to roam in a geographically adjacent market, carriers have sought to meet their customers' needs by signing roaming agreements. As would be expected, these agreements can vary significantly from agreements with a non-neighboring carrier. Agreements with adjacent carriers offer a

nation to offer broadband PCS service, its largest cellular competitor concentrated its advertising campaign on the unavailability of roaming to APC's customers." Notice at ¶ 11 (citation omitted). In addition, the Commission raised a significant concern that an automatic roaming requirement would hinder a carrier's ability to distinguish its roaming services from another, an unwelcome result in the competitive CMRS market. Id. at ¶ 28.

³³ Id. at ¶ 19 (citation omitted).

carrier two advantages. First, it "seamlessly" increases the carrier's service area. Through inter-carrier roaming a user can travel into an area close to its home carrier's service area, and need not make special arrangements with the visiting carrier (avoiding manual roaming requirements), thereby increasing the customer's service area. Second, is the increased traffic volume realized from adjacent carriers. Because most roaming currently takes place in adjacent markets, proximately-located carriers generally supply more users to a carrier's network.

This phenomenon is exemplary of the second factor -- anticipated volume of traffic. Any carrier that is deemed to be supplying more users can also be expected to get more favorable terms. On the other hand, carriers that will not supply the same amount of volume (e.g., geographically distant carriers), and therefore do not contribute commensurately to covering the cost of roaming services, should not expect to receive the same rates and terms under an inter-carrier roaming agreement.

Roaming agreements also must take account of technical considerations surrounding roaming fraud. Of late, the cellular industry has had to increase its efforts to combat the problem of fraud. Because issues of fraud are of greater economic significance to some carriers than others, carriers currently have in place different levels of investment, both in terms of equipment and personnel, to detect and prevent network fraud, including roaming fraud. By industry convention, it is the home carrier, and not the serving carrier that generally is responsible for and bears the losses caused by roaming fraud.

One plain implication of this fact is that the level and sophistication of a carrier's fraud detection and prevention devices significantly affects the terms of any roaming agreement. When and if carriers agree to share the risks associated with roaming fraud, it will add still another layer of complexity to the negotiation and contracting process.

While the Commission may recognize that all carriers are not similarly situated for purposes of their entitlement to certain rates and terms found in roaming agreements,³⁴ the complexities and numerous variables associated with each particular inter-carrier agreement make it virtually impossible for the Commission to adopt a generic, encompassing framework.

Another important factor also must be considered -- rivals gaming the regulatory process in an effort to impose added costs. Niche CMRS services, such as those which may be offered by D-F block broadband PCS providers, may develop where more targeted coverage is desired, e.g., specialized, lower-cost service offerings limited in geographic scope. In this situation, an automatic roaming requirement, especially if mutual, may be entirely inconsistent with the business plans of a service provider. Moreover, roaming may be requested by a carrier in an attempt to increase a rival provider's costs. The possibilities are extensive, and will vary from circumstance to circumstance. As a result, the Commission cannot adopt an automatic roaming rule that will reliably produce more competitive benefits than

³⁴ Id. at ¶ 22 (citation omitted).

detriments. In these circumstances the rule and attendant processes inevitably will be very vulnerable to subversion.³⁵ This is especially true in this instance where, except for postage, there is no cost associated with making a request.

B. An Automatic Roaming Requirement Imposes Significant Administrative Costs On Carriers.

Roaming, while valuable, is also costly.³⁶ After a roaming agreement has been reached between two carriers, each carrier must shoulder additional costs for system operations that are a prerequisite to roaming. The costs associated with processing information about the other carrier's users are especially significant.

To implement the terms of a roaming agreement, the requesting carrier will transfer user data to the serving carrier. The administrative burdens of roaming then shift almost entirely to the serving carrier. The serving carrier is faced with the expense of (1) initially loading user data, (2) managing the information once loaded, and (3) then updating the home carrier's user data on a regular basis. For each of the requesting carrier's customers, the serving carrier must input the numbering plan area (NPA) and the central office code (NXX)³⁷

³⁵ See Robert H. Bork, The Antitrust Paradox: A Policy at War With Itself, 347 (1978) ("Predation by abuse of governmental procedures, including administrative and judicial processes, presents an increasingly dangerous threat to competition").

³⁶ The Commission has recognized the possibility that the additional burden of automatic roaming may be too costly for some carriers to bear. Notice at ¶ 29.

³⁷ For cellular carriers serving North America, there are approximately 12,800 NPA/NXXs. For each NPA/NXX there are

into its switch, into the billing system, into the network routing tables (for validation and call delivery), and into the roamer administration system/database. In addition to the user information, the serving carrier must maintain complex relationship tables which detail the serving carrier's agreements relating to terms and conditions, and roaming rates, for each roaming partner's market system identification number (SID) and billing identification number (BID).³⁸ Irrespective of the amount of roaming traffic that is traveling through the serving carrier's network, the carrier must update its data on a regular basis, as information is changing constantly. Therefore, a certain amount of staff time will always be expended as overhead in maintaining a roaming agreement that may not equal the revenue realized from the relationship.

The additional costs of roaming are not limited to the carrier's internal labor and network expenses. They also include costs paid to third parties. For example, many carriers retain third party vendors to manage billing support systems and often must pay additional charges for the additional data stored on the vendor's system. If a carrier is in a roaming agreement, the vendor must have that information to bill roamers, and the vendor

at least seven additional data elements exchanged and managed to maintain an automatic roaming agreement.

³⁸ There are approximately 1800 cellular SIDs/BIDs in operation in North America today. Each cellular carrier has its own 15 bit binary number assigned to it. See 47 CFR § 22.941. When a roaming agreement is reached, this code must be input along with every user's NPA/NXX.

will then charge the serving carrier more for the increased data. The serving carrier is also saddled with the administrative costs of financial settlements with the requesting carriers. Such added costs include invoice preparation, mailing, payment tracking, and dunning when overdue.

In a 1994 CIBERNET study,³⁹ the added costs of manual roaming were closely examined. The study concluded that roaming administrative overhead costs small carriers an average of \$18,337 annually, medium carriers an average of \$31,886 annually, and large carriers an average of \$53,953.⁴⁰ Included in these studies were the costs of notifying roaming partners to suspend or reinstate NPA/NXXs for fraud related reasons; the costs of loading, updating, and managing data in all systems; the costs of faxing or mailing updated technical data; and the costs of rejected calls that cannot be billed to the requesting carrier due to incorrect data on a call record. Considered in a vacuum, these costs may seem small. For smaller carriers, though, these costs are significant, and the more so for new PCS companies. Even for larger carriers, these costs are increased by the number of systems owned nationwide. Moreover, to the extent that a

³⁹ CIBERNET is a wholly owned subsidiary of the Cellular Telecommunications Industry Association. CIBERNET plays a key role in industry standard-setting for intercarrier exchange of billing data, roaming data and financial settlements.

⁴⁰ The study defined small carriers as having 1-49 NPA/NXXs, medium carriers had between 50-100 NPA/NXXs, and large carriers had over 100 NPA/NXXs.

carrier has more than one inter-carrier roaming agreement in a given market, the costs are larger as well.

The cellular industry has taken note of the high administrative costs of roaming, and initiatives are being proposed to address and alleviate these burdens. While technology like CIBERNET's CORD product may eventually alleviate some, if not the majority of these costs, the very fact that the industry is rapidly changing in response to competitive demands strongly suggests that the Commission refrain from intervention. That is, any rule adopted now, even if it were "accurate," i.e., based upon current reported industry costs, may be obsolete six months from now.

CONCLUSION

For these reasons, CTIA respectfully requests that the Commission refrain from adopting an automatic roaming requirement for CMRS providers.

Respectfully submitted,

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